

AMENDMENT UNDER 37 C.F.R. § 1.111
U.S. APPLN. NO. 10/066,711

REMARKS

1. Applicant requests the Examiner to withdraw the objection to the disclosure in view of the above amendments inserting the heading, DETAILED DESCRIPTION OF THE INVENTION, inserting a corrected ABSTRACT OF THE DISCLOSURE, and correcting other minor spelling and grammatical errors. Applicant does not understand the Examiner's requirement for "New application papers with lines double spaced...", as 37 C.F.R. § 1.52(b)(2) specifically authorizes a line spacing of "1 1/2 or double-spaced"; thus, Applicant respectfully requests the Examiner to reconsider and withdraw this requirement.

2. Applicant does not understand the Examiner's statement, "Correction is required". The undersigned attorney has reviewed the specification and believes that it fully complies with "US standards"; however, if the Examiner still feels that such standards have "not been fully met", it is requested that the Examiner call the undersigned attorney to discuss the matter.

3. Applicant requests the Examiner to withdraw the objection to claim 2 in view of the above amendment thereof. (As will be discussed below, claim 2 (2/1) also has been rewritten in independent form.)

4. and 5. Applicant respectfully traverses the rejection of claims 1 and 3 under 35 U.S.C. § 103(a) as being unpatentable (obvious) over Xie '604 in view of Wong '444.

Even assuming, *arguendo*, that Xie discloses a WDM transmission system where two sets of channels are orthogonally polarized with respect to each other, Applicant does not see any teaching or suggestion in Xie of Applicant's claimed "means at a receiver for alternately left-side

AMENDMENT UNDER 37 C.F.R. § 1.111
U.S. APPLN. NO. 10/066,711

and right-side filtering sidebands of the adjacent channels" (see the corresponding language in the amended claims 1, 2 and 3).

The Examiner refers only to the Abstract of Xie, and does not specify where, in Xie's disclosure, there is any teaching or suggestion of the claim 1 limitation, "means at a receiver for alternately left-side and right-side filtering sidebands of the adjacent channels", or the claim 3 limitation, "said filters performing alternating left-side and right-side filtering for adjacent received channels which are transmitted via a WDM transmission line".

In view of this **deficiency** in Xie's disclosure, Applicant respectfully submits that the rejection under 35 U.S.C. § 103(a) is flawed, in that the Examiner has not made out a *prima facie* case of obviousness.

More specifically, even assuming, *arguendo*, that Wong discloses (as asserted by the Examiner) "a WDM device where alternating channel spacings are such that one is greater than the other", Applicant respectfully submits that modifying Xie with Wong as proposed by the Examiner clearly would not have rendered obvious the subject matter, taken as a whole, of each of claims 1 and 3. Furthermore, it appears that the Examiner has engaged in the prohibited use of hindsight reconstruction to propose these modifications based on motivations of "the lower cost of interferometric devices...", allowing "more efficient transmission of optical signals", and maximizing "enhancing the multiplexing processing".

Furthermore, even if for some reason, a person were to combine the teachings of Xie and Wong, there would not be produced the subject matter, taken as a whole, of either of claims 1 or

AMENDMENT UNDER 37 C.F.R. § 1.111
U.S. APPLN. NO. 10/066,711

3, or any subject matter which would have rendered claims 1 and 3 obvious to a person of ordinary skill in the art at the time the inventions of claims 1 and 3 were made.

Therefore, Applicant respectfully requests the Examiner to reconsider and withdraw the rejection of claims 1 and 3 under 35 U.S.C. § 103(a).

6. and 7. Even though Applicant does not acquiesce in the provisional obviousness-type double-patenting rejection of claims 1 and 3 over claims 1 and 3 of the co-pending application No. 10/054,860 in view of Wong, Applicant, to expedite the disposition of this application, files concurrently herewith a Terminal Disclaimer (with the required fee) which states, *inter alia*, in effect that the patent granted on the present application will have the same expiration date as the patent granted on Application No. 10/054,060.

8. Applicant has rewritten claim 2 (2/1) in independent form. Therefore, Applicant respectfully requests the Examiner to reconsider and withdraw the objection to claim 2, and to **allow** claim 2.

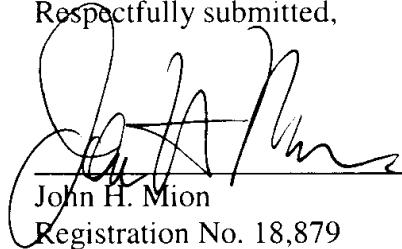
In summary, then, Applicant respectfully requests the Examiner to reconsider and withdraw all objections, requirements and rejections, and to find the application to be in condition for allowance with all of claims 1, 2 and 3; however, if for any reason the Examiner feels that the application is not now in condition for allowance, the Examiner is respectfully requested to **call the undersigned attorney** to discuss any unresolved issues and to expedite the disposition of the application.

Applicant files concurrently herewith the above-mentioned Terminal Disclaimer, and a Petition (with fee) for an Extension of Time of One Month. Applicant hereby petitions for any

AMENDMENT UNDER 37 C.F.R. § 1.111
U.S. APPLN. NO. 10/066,711

extension of time which may be required to maintain the pendency of this application, and any required fee for such extension is to be charged to Deposit Account No. 19-4880. The Commissioner is also authorized to charge any additional fees under 37 C.F.R. § 1.16 and/or § 1.17 necessary to keep this application pending in the Patent and Trademark Office or credit any overpayment to said Deposit Account No. 19-4880.

Respectfully submitted,



John H. Mion
Registration No. 18,879

SUGHRUE MION, PLLC
2100 Pennsylvania Avenue, N.W.
Washington, D.C. 20037-3213
(202) 663-7901

WASHINGTON OFFICE

23373

CUSTOMER NUMBER

Date: August 19, 2003